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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,180	07/16/2003	Michael Johnston Mann	32008-2	2353

7590 09/28/2005

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EXAMINER

DEVORE, PETER T

ART UNIT	PAPER NUMBER.
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3751

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/621,180

Applicant(s)

MANN, MICHAEL JOHNSTON

Examiner

Peter T. deVore

Art Unit

3751

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/15/05.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 17-19 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-16 is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 17-19 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/20/05.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Cohen et al.

The Cohen reference discloses a method of reducing fire hazard at fueling station having a nozzle 22 with a hose at its end (see Figure 2) comprising preparing a caution sign having a touch area 44A and instructions 45, placing the caution sign at the fueling station remote from the nozzle (see Fig. 2 and col. 5, lines 47-51), and grounding the touch area (see col. 6, lines 62-63).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen in view of Rankilor.

The Cohen reference discloses a method as discussed supra, but remains silent as to the resistance of the touch area. However, the Rankilor reference discloses a similar method including providing a touch area having a resistance in the claimed range (see col. 3, lines 56-58) to allow for proper discharge of static electricity. It would have been obvious to employ a touch area having a resistance in the range taught by Rankilor to allow for proper discharge of static electricity.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen in view of Kinzie.

The Cohen reference discloses a method as discussed supra, but does not disclose putting safety rules on the sign. However, the Kinzie reference discloses a similar method including putting safety rules on the sign (see col. 10, lines 24-28) for improved safety of the operator. It would have been obvious to employ safety rules on the sign in the Cohen method in view of Kinzie for improved safety of the operator.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen in view of Kinzie and Bradt.

The Cohen/Kinzie references teach a method as discussed supra, but remain silent as to the type of safety instructions. However, Bradt teaches that fire safety rules are important in a refueling environment (see col. 7, lines 12-15). It would have been

obvious to employ fire safety rules on the sign in the modified Cohen method in view of Bradt for improved fire safety of the operator.

***Allowable Subject Matter***

Claims 6-16 are allowed.

***Response to Arguments***

Applicant's arguments filed 7/15/05 have been fully considered but they are not persuasive. Applicant first argue that the Cohen method is different because the customer is not grounded prior to the filling operation. However, this sequence is not recited in the claims in question. Next, Applicant argues that the sign in Cohen is not a caution sign. However, it is the Examiner's position that a sign with instructions for safe operation of a device can be considered a "caution sign". Next, Applicant speculates that the safety rules of the Kinzie reference could only relate to precautions against robbery; however, given that the rules are provided at a fueling station, it is the Examiner's position that regardless of their content they read on the broadly claimed "fueling safety rules". Next, Applicant argues that the Rankilor reference does not cure perceived deficiencies in the sign and touch area. However, this is moot as Rankilor is not relied upon in this manner. Next, Applicant argues that Bradt does not disclose the posting of fire safety rules at a service station. However, Bradt is relied upon by the Examiner merely for motivation to modify existing service station safety rules to address fire safety, not as an explicit disclosure of such.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter T. deVore whose telephone number is (571) 272-4884. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pd Pd

  
JUSTINE R. YU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

- 9/26/05